MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

CYNTHIA PATZ,	)	No. ED99283
	)	
Petitioner/Respondent,	)	Appeal from the Circuit Court
	)	of Jefferson County
v.	)	
	)	Hon. Patricia A. Riehl
CONRAD PATZ,	)	
	)	
Respondent/Appellant.	)	FILED: August 20, 2013

Conrad Patz (Husband) appeals from the trial court's judgment in favor of his former spouse, Cynthia Patz (Wife), on their respective motions to modify child support and maintenance. Husband asserts that the trial court erred by: (1) relieving Wife of child support due to Husband's social security benefits for the child; (2) preserving Wife's maintenance despite her increased earnings; (3) awarding arrears when Wife failed to seek them in her pleadings; and (4) calculating the amount of arrears without adjustment for Husband's periodic unemployment.

AFFIRMED.

DIVISION ONE HOLDS: (1) Although the trial court erred by considering Husband's social security benefits for the child as a basis for relieving Wife of child support, the court reached the right result in that Husband testified that he didn't seek support but intended to provide fully for the child, and the trial court implicitly found (and the record reflects) that Husband adequately satisfied the child's needs. (2) The trial court did not abuse its discretion in preserving maintenance in that Wife's modest income fell short of her reasonable needs and Husband retained the financial ability to pay. (3) The trial court did not exceed its authority in awarding arrears in that the issue, though not pleaded, was tried by consent, as demonstrated by Husband's financial spreadsheet and his testimony asking the court to reduce his arrears. (4) The trial court did not abuse its discretion for calculating arrears in accordance with the financial facts, without adjustments. Husband cited no authority prescribing reductions for sporadic unemployment, and Wife's acceptance of partial payment did not constitute waiver by acquiescence, as that doctrine invokes equitable considerations not present here.

Opinion by: Clifford H. Ahrens, Judge Roy L. Richter, P.J., and Glenn A. Norton, J., concur.

Attorney for Appellant: Jonathan D. Marks

Attorney for Respondent: Mary Ann Weems

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.